

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 201

HOUSE BILL 2324

AN ACT

AMENDING SECTION 20-1131, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1131.01; RELATING TO LIFE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1131, Arizona Revised Statutes, is amended to
3 read:

4 20-1131. Exemption of life insurance proceeds and cash values
5 from creditors

6 A. ~~When~~ IF a policy of life insurance is effected by any person on ~~his~~
7 THE PERSON'S own life or on another life in favor of ~~some~~ ANOTHER person
8 other than himself having an insurable interest ~~therein~~ IN THE POLICY, or
9 made payable by assignment, change of beneficiary or other means to a third
10 person, the lawful beneficiary ~~thereof~~ or such third person, other than the
11 person effecting the insurance or ~~his~~ THE PERSON'S legal representatives,
12 ~~shall be~~ IS entitled to its proceeds against the creditors and
13 representatives of the person effecting the ~~same~~ INSURANCE.

14 B. Subject to the statute of limitations, the amount of any premiums
15 for insurance paid in fraud of creditors, with interest ~~thereon~~, shall inure
16 to their benefit from the proceeds of the policy, but the insurer issuing the
17 policy shall be discharged of all liability ~~thereon~~ ON THE POLICY by payment
18 of the proceeds in accordance with its terms, unless before payment the
19 insurer received written notice by or in behalf of some creditor, with
20 specification of the amount claimed, claiming to recover for certain premiums
21 paid in fraud of creditors.

22 C. For the purposes of subsection A, a policy shall also be deemed to
23 be payable to a person other than the insured if and to the extent that a
24 facility-of-payment clause or similar clause in the policy permits the
25 insurer to discharge its obligation after the death of the individual insured
26 by paying the death benefits to a person as permitted by ~~such~~ THE clause.

27 D. ~~Where~~ IF, for a continuous, unexpired period of two years, a policy
28 of life insurance has named as beneficiary the insured's surviving spouse,
29 child, parent, brother, sister or any other dependent family member, then,
30 in event of bankruptcy ~~or in any proceeding~~ before any court in this state,
31 the cash surrender value of the insurance, in the proportion that the policy
32 names any such beneficiary, shall be exempt from claims and demands of all
33 creditors, other than a creditor to whom ~~such~~ THE policy has been
34 assigned, ~~providing such~~. THE exemption on all policies of life insurance
35 relative to any debtor shall not exceed twenty-five thousand dollars except
36 that, subject to the statute of limitations, the amount of any premiums paid
37 in fraud of creditors, with interest ~~thereon~~, shall inure to their benefit
38 from ~~such~~ THE cash surrender value. For the purposes of this ~~section~~
39 SUBSECTION, "dependent" means a family member who is dependent upon ON the
40 insured for not less than half support.

1 Sec. 2. Title 20, chapter 5, article 1, Arizona Revised Statutes, is
2 amended by adding section 20-1131.01, to read:

3 20-1131.01. Life insurance and annuities; benefits;
4 exemption from seizure; exceptions

5 A. EXCEPT AS PROVIDED BY SUBSECTION D OF THIS SECTION, THIS SECTION
6 APPLIES TO ANY BENEFITS, INCLUDING THE CASH VALUE AND PROCEEDS OF AN
7 INSURANCE POLICY, TO BE PROVIDED TO AN INSURED OR BENEFICIARY UNDER:

8 1. AN INSURANCE POLICY OR ANNUITY CONTRACT ISSUED BY A LIFE, HEALTH
9 OR ACCIDENT INSURANCE COMPANY, INCLUDING A MUTUAL COMPANY OR FRATERNAL
10 BENEFIT SOCIETY.

11 2. ANY ANNUITY OR BENEFIT PLAN USED BY AN EMPLOYER OR INDIVIDUAL.

12 B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE EXCEPT FOR
13 SECTION 20-1131, INSURANCE OR ANNUITY BENEFITS DESCRIBED BY SUBSECTION A OF
14 THIS SECTION:

15 1. INURE EXCLUSIVELY TO THE BENEFIT OF THE PERSON FOR WHOSE USE AND
16 BENEFIT THE INSURANCE OR ANNUITY IS DESIGNATED IN THE POLICY OR CONTRACT.

17 2. ARE FULLY EXEMPT FROM:

18 (a) GARNISHMENT, ATTACHMENT, EXECUTION OR OTHER SEIZURE.

19 (b) SEIZURE, APPROPRIATION OR APPLICATION BY ANY LEGAL OR EQUITABLE
20 PROCESS OR BY OPERATION OF LAW TO PAY A DEBT OR OTHER LIABILITY OF AN INSURED
21 OR OF A BENEFICIARY, EITHER BEFORE OR AFTER THE BENEFITS ARE PROVIDED.

22 C. THE EXEMPTIONS PROVIDED BY SUBSECTION B OF THIS SECTION APPLY
23 REGARDLESS OF WHETHER:

24 1. THE POWER TO CHANGE THE BENEFICIARY IS RESERVED TO THE INSURED.

25 2. THE INSURED OR THE INSURED'S ESTATE IS A CONTINGENT BENEFICIARY.

26 D. THE EXEMPTIONS PROVIDED BY SUBSECTION B OF THIS SECTION DO NOT
27 APPLY TO:

28 1. A PREMIUM PAYMENT MADE IN FRAUD OF A CREDITOR, SUBJECT TO THE
29 APPLICABLE STATUTE OF LIMITATIONS FOR RECOVERING THE PAYMENT.

30 2. A DEBT OF THE INSURED OR BENEFICIARY THAT IS SECURED BY A PLEDGE
31 OF THE CASH VALUE OF AN INSURANCE POLICY OR THE PROCEEDS OF THE POLICY.

APPROVED BY THE GOVERNOR MAY 6, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2004.